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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,307	12/04/2003	William J. Meis		5163
31083	7590	04/19/2005		
THOMTE, MAZOUR & NIEBERGALL, L.L.C. 2120 S. 72ND STREET, SUITE 1111 OMAHA, NE 68124			EXAMINER TOLAN, EDWARD THOMAS	
			ART UNIT 3725	PAPER NUMBER

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/727,307	MEIS, WILLIAM J.	
	Examiner	Art Unit	
	Tolan Edward	3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-13 and 15-18 is/are rejected.
- 7) Claim(s) 14 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2-3-2004</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: ____ . |

DETAILED ACTION

Drawings

Figures 1-6 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The description of Figure 4 has a mistake "the system of Figure 4" should be -- the system of Figure 3--.

The terms first, second and third that are used in the claims to define the supports, sockets and tubes are not used in the specification. It is not possible to determine what the first, second and third refer to when reading the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The terms first, second and third that are used in the claims to define the supports, sockets and tubes are not clear, it is not possible to determine the claim elements from their descriptions in the specification. With all the embodiments and sleeves, tubes and sockets claimed it is really confusing to read the claims; for example in claim 1 where the support is claimed in lines 7 and 8, the specification (page 11, lines 2 and 3) sets forth "a generally vertically disposed plate or support (208) welded to the end of plate (206). The claim does not provide orientation, how is the reader supposed to know what support it is?

Claim 12 is confusing because a "first upstanding support" is claimed in lines 4 and 5, a "first hollow sleeve" is claimed in lines 6 and 7 and "a second generally vertically disposed support" is claimed in lines 8 and 9. The specification (page 12, lines 4 and 5) sets forth "A post or support 226 is positioned within socket 46 of blocking socket 38 and has a **reduced thickness portion at its upper end**". Then in lines 8 and 9 it says "sleeve or tube is selectively positioned on reduced thickness portion 228 of support 226". The specification is only enabling for the sleeve (232) to fit on portion (228). The vertically disposed support is welded to spacer (234) as disclosed and it is not claimed this way.

Applicant should delete the first, second and third references (or add them to the specification) and claim the elements as they are disclosed in the specification or else it is impossible to tell which embodiment or element is actually being claimed.

The term "retainer" in line 15 of claim 1 and line 16 of claim 12 is not used in the specification, the term --pin-- is.

In claims 4,5 and 16 the term "quadrilateral" is used. The specification only uses the terminology "square".

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham et al. (6,568,237) in view of Wisner (5,054,307). Graham discloses a vehicle holding system for a straightening apparatus comprising an upstanding support having a vertically disposed socket (30), a first upstanding socket insert sleeve (32), a first support (36), a second support (54), a first hollow tubular member (42), a second hollow tubular member (48) mounted within the first tubular member, a third support (58) and a retainer (46) that connects the first and second tubular members so that clamps (62,64) on the second and third supports receive a vehicle frame. The retainer (46) varies a distance between the supports (54,58). The socket sleeve (32) is vertically adjustable (column 5, lines 58-67). Graham discloses square and round sockets and tubes. Figure 6 shows the bolt member connecting the socket insert to the sleeve. The supports are plates.

Regarding the claim limitation "selectably rotatably mounted" in line 11 of claim 1. The Examiner contends that the inner tube (48) can certainly be pulled out of the outer tube (42) and rotated to turn the support (58) over, but since Applicant's specification is

only enabling for circular tubular members (although they are not claimed) a teaching reference will be used.

Wisner teaches first (24) and second (40) tubes connected by a pin (46). It would have been obvious to one skilled in the art at the time of invention to substitute circular tubular members and a pin connection as taught by Wisner for the threaded square members of Graham in order to avoid threads which may become worn.

Claims 11-13,16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham et al. (6,568,237) in view of Wisner (5,054,307) and further in view of Lee (5,413,303). Graham discloses a vehicle holding system for a straightening apparatus comprising an upstanding support having a vertically disposed socket (30), a first hollow sleeve (32), a second support (54), a first hollow tubular member (42), a second hollow tubular member (48) mounted within the first tubular member, a third support (58) and a retainer (46) that connects the first and second tubular members so that clamps (62,64) on the second and third supports receive a vehicle frame. The retainer (46) varies a distance between the supports (54,58). The socket sleeve (32) is vertically adjustable (column 5, lines 58-67). Graham discloses square and round sockets and tubes. Figure 6 shows the bolt member connecting the socket insert to the sleeve. The supports are plates.

Regarding the claim limitation "selectably rotatably mounted" in line 12 of claim 12. The Examiner contends that the inner tube (48) can certainly be pulled out of the outer tube (42) and rotated to turn the support (58) over, but since Applicant's

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specification is directed to circular tubular members (although they are not claimed) a teaching reference will be used.

Wisner teaches first (24) and second (40) tubes connected by a pin (46). It would have been obvious to one skilled in the art at the time of invention to substitute circular tubular members and a pin connection as taught by Wisner for the threaded square members of Graham in order to avoid threads which may become worn.

Graham in view of Wisner does not disclose a first upstanding support. Lee teaches a socket (40), first upstanding support (43) and hollow sleeve (45). It would have been obvious to one skilled in the art at the time of invention to provide Graham in view of Wisner with a first upstanding support as taught by Lee in order to extend a length of the holding system.

Claims 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Graham in view of Wisner and Lee and further in view of Hinson (5,415,023).

Graham in view of Wisner and Lee does not disclose a shim. Hinson teaches shims (54,54'). It would have been obvious to one skilled in the art at the time of invention to provide Graham in view of Wisner and Lee with shims as taught by Hinson in order to space the vehicle frame correctly.

Allowable Subject Matter

Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and overcoming the 35 USC 112, second

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paragraph rejection. The prior art of record does not disclose a post having a reduced thickness portion at its upper end defining a shoulder.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication should be directed to Ed Tolan whose telephone number is 571-272-4525.

ED TOLAN
PRIMARY EXAMINER
